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### REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Applicants assert that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

### Status of Application and Claims

In the December 27, 2007 Office Action, the Examiner required restriction of the claims to one of the following three inventions under PCT Rule 13.1:

- Group I (claims 1, 3, 5, 6, 8, 9, 11, 12, 14 and 15) drawn to a first system for in vivo detection of *H. pylori*, as recited in claim 1;
- Group II (claims 17-19) drawn to a second system for in vivo detection of *H. pylori*, as recited in claim 17; and
- Group III (claims 22-25 and 27) drawn to a method of in vivo detection of *H. pylori*.

In the January 24, 2008 Response, Applicants elected to prosecute Group III, claims 22-25 and 27. Applicant also canceled claims 1-22 and 26-29 and added new claims 30-36 further directed to the invention of Group III.

The Examiner suggested that the terms "in vivo" and *H. pylori* be italicized in the claims. Applicants note that claims 22, 30 and 32 as listed above, which contain either/or the terms "in vivo" and *H. pylori*, have been amended and now reflect italics for these terms.

### CLAIM REJECTIONS

#### 35 U.S.C. § 112 Rejections

In the Office Action, the Examiner rejected claims 22-25 and 30-36 under 35 U.S.C. § 112, second paragraph, as being incomplete for omitting essential elements, which amounts

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to a gap between the steps. In response, Applicants have amended claims 22 and 32 to overcome the rejections noted by the Examiner. Applicants note that these amendments do not add new matter to the claims, as the new steps find support in the specification (see, specification as filed, page 14 for step of “causing the autonomous *in vivo* device to contact at least one location of the upper gastrointestinal tract by rotating said patient” and page 10 for step of “processing pH data sensed to determine presence of *H. pylori*”).

The Examiner also rejected claims 23 and 33 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention for reciting the term “predetermined threshold”. Applicants note that the term “predetermined” is defined in the application as filed, at page 10, line 20 - page 11, line 6, wherein it is disclosed that a pH value indicating pH level of 5.5 indicates on presence of *H. pylori*, and that the threshold of pH change over 2.5 is indicator for presence of *H. pylori*.

The Examiner further rejected claim 35 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention for reciting the term “substantially covering”. In response, Applicants have canceled claims 34 and 35.

Applicants respectfully assert that these amendments render claims 22-25, 30-33 and 36 proper under 35 U.S.C. § 112, second paragraph, and request that the rejections be withdrawn.

### **35 U.S.C. § 103 Rejections**

In the Office Action, the Examiner rejected claims 22-25 and 30-36 under 35 U.S.C. § 103(a), as being unpatentable over Marshall (U.S. Patent No. 6,228,605 B1) in view of Iddan et al. (U.S. Patent No. 5,604,531). Applicants respectfully traverse this rejection.

Marshall teaches a method for the *in vivo* detection of *H. pylori*, and the Examiner states that Marshall teaches all the steps of independent claim 22 except the autonomous *in vivo* sensing device and wherein the sensing is done by radio frequency. The Examiner states

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that Iddan et al. discloses an autonomous *in vivo* sensing device, wherein the sensing is done by radio frequency.

Applicants note that independent claim 22 has been amended *inter alia* to include the step of "causing the autonomous *in vivo* device to contact at least one location of the upper gastrointestinal tract by rotating said patient". Applicants note that neither Marshall nor Iddan discloses or suggests the step of causing the autonomous *in vivo* device to contact at least one location of the upper gastrointestinal tract by rotating the patient. Accordingly, claim 22 is not obvious over Marshall in view of Iddan.

Claims 23-25, 30-33 and 36 include all the limitations of independent claim 22 and are therefore also not obvious over Marshall in view of Iddan. Applicants respectfully request that this rejection be withdrawn.

### **Double Patenting Rejection**

Claims 22-25 and 30-36 were provisionally rejected for obviousness-type double patenting as being unpatentable over claims 18-21 of U.S. Patent Application No. 10/524,553 (common inventor, same assignee). According to the Examiner, although the conflicting claims are not identical, they are not patentably distinct from each other.

Applicants note that U.S. Patent Application No. 10/524,553 is still pending such that the obviousness-type double patenting rejection is only provisional as of now. Applicants respectfully advise the Examiner that they will address this obviousness-type double patenting rejection over claims 18-21 of U.S. Patent Application No. 10/524,553 when claims of this application are held allowable and when U.S. Patent Application No. 10/524,553 has been held allowable or issues as a patent.

In view of the foregoing amendments and remarks, the pending claims are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

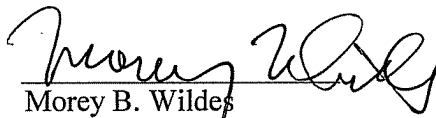
Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone

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number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,



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